

REMARKS

In the first Office Action dated February 13, 2003, pending claims 1-13 were examined. The Examiner rejects claims 1 through 3 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,435,523 (the Hying et al. patent). The Examiner rejects claims 1 through 5 and 8 through 11 under 35 U.S.C. 103(a) as obvious over the Hying et al. patent in view of U.S. Patent No. 5,281,064 (the Zimmer patent). The Examiner objects to claims 6, 7, 12, and 13 as being dependent upon a rejected base claim. However, Applicants appreciate the Examiner's indication that the claims would be allowable subject to being rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants respectfully traverse both the 102(a) and 103(a) rejections as explained below. Applicants respectfully request that the Examiner reconsider these rejections in light of the following remarks.

Anticipatory Rejection under 35 U.S.C. 102(a):

The Examiner rejects claims 1 through 3 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,435,523 (the Hying et al. patent). Applicants herein amend claim 1, not to overcome the 102(a) rejection, but to more clearly set forth the claim limitations found in the claims as filed. Thus, Applicants respectfully traverse this rejection and request that the Examiner reconsider this rejection after consideration of the following comments.

Based upon the Examiner's rejection of claim 1, as supported by FIG. 3 of the Hying et al. patent, it appears that clarification of the invention was required. The Examiner indicates that the Hying et al. patent discloses a screw jack having a nut 7 captured in a nut retainer seated within an upper end of a lower jack tube. However, the Examiner does not point to any

particular element or structure in the Hying et al. patent disclosing a nut retainer seated within an upper tube. Thus, for the purposes of clarification, Applicants amend claim 1, and all other claims herein, to claim the nut retainer as a positively claimed member.

With regard to the applicability of the Hying et al. patent as an anticipatory reference, the Hying et al. patent provides no basis that nut 7 is captured within a nut retainer member that is seated within an upper end of the lower jack tube as previously required by claim 1 and as more clearly presented in the present amendment.

The Hying et al. patent mentions in the specification, at Col. 3, line 56, a "nut secured to the upper end portion of the inner tube..." However, a description of such securement is not provided. In FIG. 3 of the Hying et al. patent, the nut 7 arguable appears to be held within a crimped slop in the inner tub 2. Thus, the nut 7 appears to be secured directly to inner tube 2 without assistance by a separate nut retainer member seated within the tube.

The cross-sectional material located radially outwardly from the nut 7, as seen in FIG. 3, is not numbered or described and therefore provides only speculative information. Nevertheless, the unidentified member likewise must not be interpreted as a nut retainer member as required by claim 1 because the unidentified member is clearly not seated within a lower jack tube.

Therefore, the Hying et al. patent does not appear to disclose each and every element of claim 1. Thus, the 102(a) rejection of claims 1 through 3 appears to be improper. Applicants respectfully request that the Examiner withdraws the 102(a) rejection and indicate claims 1 through 3 allowable over the Hying et al. patent.

Obviousness Rejection under 35 U.S.C. 103(a):

The Examiner rejects claims 1 through 5 and 8 through 11 under 35 U.S.C. 103(a) as obvious over the Hying et al. patent in view of U.S. Patent No. 5,281,064 (the Zimmer patent). Applicants object to the use of the Zimmer reference as non-analogous art and as improperly combined with the Hying et al. patent. The comments above with regarding to what is disclosed by the Hying et al. patent are also applicable to the 103(a) analysis.

There is no support in either the Hying et al. patent or the Zimmer patent to combine their respective teachings. The Zimmer patent is directed to mounting handles to a backing panel, clearly not analogous subject matter to a trailer jack. Further, upon study of the nut cage 46 in the Zimmer patent, the Zimmer patent actually teaches away from the combination of the references to support a rejection of the claims of the present application.

The Zimmer patent discloses a sheet metal cage 46 used for retaining a nut 48 within a handle body. There is no disclosure in the Zimmer patent that the cage 46 is held within any “tube 20” as indicated by the Examiner. As put forth at Col. 2, line 67 and beyond, rear mounting of the handle 10 is exemplified by the use of a bolt 18, wherein the bolt first is inserted through the bore 14 in panel 12 from the rear of the panel, passing into the handle 10 from the rear surface 22 wherein it is retained in a position by a nut mounted and captured within the interior of the handle. Element 20 of the Zimmer patent is the front surface of a handle.

There is no support in the Zimmer patent for use of any such sheet metal nut retainer with telescoping tubes. In particular, the sheet metal nut cage 46 of the Zimmer patent is used only to clamp a handle body to a panel. Given the support requirements involved in supporting telescoping inner and outer jack tubes, the Examiner appears to be relying on impermissible

hindsight in attempting to combine the teachings of the Hying et al. patent and the Zimmer patent to find Applicants' invention obvious.

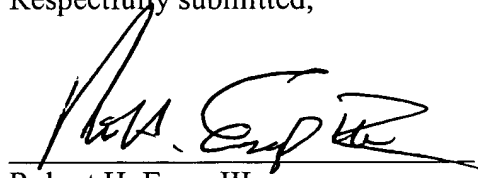
Thus, the rejection of claims 1 through 5 and 8 through 11 under 35 U.S.C. 103(a) appears inappropriate in light of the above comments. Reconsideration of this rejection is respectfully requested.

Although the Examiner indicates that claims 6, 7, 12, and 13 are allowable subject to being rewritten in independent form, Applicant feels the above remarks overcome the 102(b) and 103(a) rejections and that all claims are allowable over the art. Thus, Applicants respectfully request that the Examiner reconsider and withdraw both the 102(b) and 103(a) rejections.

Applicants submit herewith new claims 14 through 17 for the Examiner's consideration. These claims have been prepared to better define the invention and no new matter has been added. No additional fees appear due with regard to the submission of these new claims.

In light of the foregoing, Applicants respectfully submit that the application is now in condition for allowance.

Respectfully submitted,



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